

Decision 02-12-043 December 17, 2002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of: Application of the County of Alameda to reinstall a former Southern Pacific grade crossing at Pleasanton – Sunol Road, County of Alameda, State of California. (PUC No. D-38.3)

Application 01-08-009
(Filed August 3, 2001)

O P I N I O N

Summary

This decision authorizes the County of Alameda (County) to reinstall the former grade crossing at Pleasanton-Sunol Road and install warning devices.

Background

The County requests authority to reconstruct an at-grade highway-railroad crossing (crossing) in Alameda County. The reconstructed crossing will extend the Niles Canyon Railway (NCR), operated by the Pacific Locomotive Association (PLA), across Pleasanton-Sunol Road. The crossing, which was formerly operated by Southern Pacific Railroad, will be referred to as the Verona Road Crossing, CPUC No. 001D-38.30.

Discussion

The County is entering into a project to reconstruct an at-grade crossing of the abandoned former Southern Pacific track at milepost 38.30. The new track will be used by PLA on the NCR for excursion purposes in which historical railroad equipment will be used between Niles Canyon and the PLA terminus in

the southerly section of the City of Pleasanton, north of the 680 overpass. A map of the project vicinity is set forth in Appendix A.

Protest

The Rail Crossings Engineering Section (RCES) of the Rail Safety and Carrier Division (now the Consumer Protection and Safety Division) filed a protest due to its concern regarding safety of the proposed crossing. Ultimately RCES and the County reached agreement regarding the safety issues. The County then filed supplements to the applications. On October 2, 2002, RCES withdrew its protest.

In a letter dated November 26, 2002, RCES provided the assigned Administrative Law Judge with the basis of the agreement it reached with the County.

RCES proposed and the County agreed to the following, which we will adopt:

1. Advanced signs with yellow flashing lights will be installed and positioned in such manner, north and south of the crossing, to alert motorists on Pleasanton-Sunol Road to proceed with caution when approaching the crossing area. Posted on the advanced signs will be "Train Approaching When Light Flashes." The advanced flashing lights will activate prior to trains crossing Pleasanton-Sunol Road. Signage (SW27-1) will also be placed at both sides of the proposed bike lane sections of the crossing to warn bicyclists of potential hazards.
2. A "Hi-Rail" flangeway filler material will be inserted into the flangeway of the crossing, in the area of the bike lanes, to provide bicyclists who ride Pleasanton-Sunol Road a safer crossing for bicycle stability. Two years after the crossing has been completed and in operation, the County will initiate a report for the Commission delineating the effectiveness of the Hi-Rail material. The report will examine the effectiveness in preventing bicycle accidents and the durability of the material. Data will be provided in the report describing the

- condition of the material, average speed and frequency of trains, average cars per train, number of reported bicycle accidents, performance of the material, and other measurable variables that will provide the Commission a means to determine the overall effectiveness of the material. The report must be submitted to the Commission no later than 2 years and 3 months after the crossing is in operation.
3. The Commission's Rail Crossing Engineering Section (RCES) will review the report and make a determination on the effectiveness of the material. If RCES determines that the material is not effective in preventing bicycle accidents, lacks durability, or is unsafe, RCES may order the County to remove the material.
 4. UPRR has a track in close proximity to the proposed crossing on an overhead structure. The close proximity of the UPRR overhead structure makes the construction of a grade separated crossing not feasible. For public safety, PLA will stop all trains and manually flag the crossing prior to any rail movements across Pleasanton-Sunol Road. Stop signs shall be installed facing rail movements in both directions.
 5. It is anticipated that the NCR Excursion Train will be used at the proposed crossing for sightseeing purposes on weekends and occasional charter service. If an increase is proposed in the daily use of the crossing, or other forms of rail service, such as freight or commuter service, the Commission must be notified prior to the commencement of the change in rail traffic. At that time, RCES will reevaluate the proposed change in rail operations and its affect on crossing safety. Likewise, if school bus service is proposed on Pleasanton-Sunol Road at the crossing, the Commission must be notified prior to its commencement.

Environmental Concerns

The County is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code Section 21000 et seq. The County evaluated the project and concluded that it would not have any significant adverse impacts on the environment. The

County determined the project to be categorically exempt and filed a Notice of Exemption on September 4, 2002 with the Alameda County Clerk. Included in Appendix B is a copy of the Notice of Exemption, which claims a categorical exemption under the State Guidelines (Section 15302), Class 2, County Section 8.2. Included in Appendix C is a copy of the Programmatic Categorical Exclusion for the project, which was approved by the California Department of Transportation on March 11, 2002.

The Commission is a responsible agency for this project under CEQA. CEQA requires that the Commission consider the environmental consequences of a project within its area of expertise that is subject to its discretionary approval. The Commission has reviewed and considered the lead agency's Notice of Exemption and Programmatic Categorical Exclusion.

RCES advised the assigned Administrative Law Judge that it inspected the site of the proposed crossing. After reviewing the need for, and safety of, the proposed crossing, RCES recommends that the requested authority sought by the County be granted for a period of two years.

Procedural Considerations

Application 01-08-009 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 40, which relates to the construction of a railroad across a public highway.

In Resolution ALJ 176-3069 dated August 23, 2001, and published on the Commission Daily Calendar on August 24, 2001, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were necessary. On August 31, 2001, RCES filed a protest to the application. The protest was withdrawn on October 2, 2002, after RCES and the County resolved certain issues pertaining to the initial filing and safety of the proposed crossing. No further protests were received by the Commission.

Given these developments, RCES recommends, and we agree that a public hearing not take place and the application be granted.

This is an uncontested matter in which the decision grants the relief requested. Pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Henry Duque is the Assigned Commissioner, and Dean Evans is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on August 14, 2001. The protest submitted by RCES was withdrawn on October 2, 2002. A public hearing is not necessary.
2. The County requests authority, under Public Utilities Code Sections 1201-1205, to reconstruct a crossing at-grade on Pleasanton-Sunol Road to be referred to as the Verona Crossing, CPUC No. 001D-38.30.
3. Public convenience and necessity require the construction of the at-grade crossing in the County of Alameda.
4. The County is the lead agency for this project under CEQA, as amended.
5. The Commission is a responsible agency for this project and reviewed and considered the County's agency's Notice of Exemption and Programmatic Categorical Exclusion.
6. The project will not have a significant effect on the environment.

Conclusions of Law

1. The application is uncontested and a public hearing is not necessary.
2. The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. The County of Alameda (County) is authorized to reconstruct a highway-rail crossing (crossing), at-grade, across Pleasanton-Sunol Road as part of the Niles Canyon Railroad (NCR), to be operated by the Pacific Locomotive Association (PLA), and referred to as the Verona Crossing, CPUC No. 001D-38.30.
2. The County shall install advanced flashing lights and signs positioned in such manner, north and south of the crossing, to alert motorists on Pleasanton-Sunol Road to proceed with caution when approaching the crossing area.
3. The advanced signs shall state “Train Approaching When Light Flashes.”
4. The County shall place signage (SW27-1) at both sides of the proposed bike lane sections of the crossing to warn bicyclists of potential hazards.
5. PLA shall install stop signs facing rail movements in both directions.
6. PLA shall stop all trains and manually flag the crossing prior to any rail movements across Pleasanton-Sunol Road.
7. A “Hi-Rail” flangeway filler material shall be inserted into the flangeway of the crossing, in the area of the bike lanes, to provide bicyclists who ride along Pleasanton-Sunol Road a safer crossing for bicycle stability.
8. The County shall submit a report to the Commission 2 years and 3 months after the crossing has been in operation evaluating the effectiveness of the Hi-Rail flangeway filler material for the first 2 years of operation.
9. The County shall provide data in the report describing the condition of the flangeway filler material, average speed and frequency of trains, average cars per train, number of reported bicycle accidents, performance of the material, and

other measurable variables that will provide the Commission a means to determine the overall effectiveness of the material.

10. The Commissions' Rail Crossing Engineering Section (RCES) will review the report and make a determination on the effectiveness of the flangeway filler material.

11. RCES may, after its review of the report, order the flangeway filler material removed.

12. PLA must notify RCES prior to the commencement of any proposed increase in daily service of the NCR Excursion Train at the crossing.

13. The proposed crossing shall be intended only for the use of the NCR Excursion Train. PLA shall notify RCES prior to the commencement of any other form of rail service that is proposed, such as freight or commuter service.

14. The County shall notify RCES prior to the commencement of any proposed school bus service on Pleasanton-Sunol Road at the crossing.

15. Clearances shall be in accordance with the Commission's General Order (G.O.) 26-D.

16. Walkways shall conform to G.O. 118. Walkways adjacent to any trackage subject to rail operations shall be maintained free of obstructions and shall be promptly restored to their original condition in the event of damage during construction.

17. Construction and maintenance costs shall be borne in accordance with an agreement to be entered into between PLA and the County. A copy of the agreement shall be filed by the County with RCES prior to construction. Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

18. Prior to construction, the County shall file with RCES final construction plans, approved by PLA.

19. Within 30 days after completion of the work under this order, PLA shall notify RCES in writing, by submitting a completed standard Commission Form-G (Report of Changes at Highway Grade Crossings and Separations), that the authorized work was completed.

20. This authorization shall expire if not exercised within two years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

21. This application is granted as set forth above.

22. Application 01-08-009 is closed.

This order becomes effective 30 days from today.

Dated December 17, 2002, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
CARL W. WOOD
GEOFFREY F. BROWN
MICHAEL R. PEEVEY
Commissioners